6.

THE TRIAL AT LARGE

OF THE RIGHT HONOURABLE

— LADY CADOGAN

FOR

ADULTERY

WITH

THE REV. MR. COOPER,

Before LORD KENYON and a SPECIAL JURY,
in Weſtminſter-Hall.

PLAINTIFF'S COUNSEL,	DEFENDANT'S,
HON. THO. ERSKINE AND MR. BALDWIN.	MR. LAW.

TAKEN IN SHORT HAND
BY A STUDENT IN THE INNER TEMPLE.

LONDON:
Printed for J. RIDGWAY, No. 1. York-Street. St. James's-Square.

1794.

Rec^d March 28. 1845
Gift of Hon S. A. Eliot
of Boston

TRIAL, &c.

Sittings before LORD CHIEF JUSTICE KENYON *and a* SPECIAL JURY.

CADOGAN *v.* COOPER.

MR. BALDWIN opened the pleadings.

This was an action for criminal converſation, brought by the Right Hon. Lord Cadogan, againſt the Rev. Mr. Cooper, in which he laid the damages at 20,000l.

The defendant ſaid he was not guilty, and thereupon iſſue was joined.

MR. ERSKINE's *opening* SPEECH *to the Jury:*

" Gentlemen of the Jury,

" Of the various cauſes of this unfortunate deſcription, which have characteriſed and diſgraced the licentious times in which we live, to all of which, for many years, I have been a witneſs, and in many of which

I have been profeſſionally engaged, I take upon me to ſay, that, of all that unfortunate catalogue of cauſes, no one approaches in any degree to that which I am now about to open to you—no one approaches to it, either in the degree of injury ſuffered by the plaintiff, whom I have the honour to repreſent, or in the degree of profligacy exhibited by the defendant, who is repreſented by my Learned Friend who ſits at the other end of the table.

" There are undoubtedly gradations in theſe cauſes, aſcending one above another, and, in the other ſcale, ſinking below each other in the damages, which will entitle me to ſubmit to your conſideration, in what rank this particular cauſe ſtands; and to demand from your juſtice, damages proportioned to the magnitude of the offence. When I put the cauſe on that iſſue, if my Learned Friend can ſelect from his own hiſtory—if he can ſelect from the records of that court in which we practiſe—if he can ſelect from the hiſtory of the times, any cauſe where the turpitude of the defendant was greater, or the injury done to the plaintiff leſs, I will venture to give up Lord Cadogan's cauſe altogether, and to ſay he ſhall receive no damages.

My Lord Cadogan was married to Lady Cadogan in 1777. His Lordſhip was at that time forty-eight and upwards, and Lady Cadogan was twenty-eight. She was the daughter of Mr. Churchill. Gentlemen, that diſparity of years is often leſſened by the different conſtitutions of men and women. Lady Cadogan continued the affectionate wife of this moſt unfortunate huſband for a great many years; and, if that diſparity of years could have had any effect to diſturb the happineſs of this couple, the ſeaſon had paſſed away fortunately without any of thoſe temptations, which are but too apt to ſeduce, producing the leaſt effect upon her mind. In the days of her beauty, in the days of her health, her huſband had no complaint againſt her; and ſhe weathered all thoſe ſtorms of temptation to which youth and beauty are ſo peculiarly ſubject. I may venture to affirm, that the breath of ſlander never tainted her character. She has brought her huſband ſeven children, ſix of whom are living, ſome of them daughters, and growing up towards woman's eſtate. Gentlemen, after a marriage ſubſiſting for ſo many years, with affection on the part of the huſband, and fidelity on the part of the wife, our experience

tells us, when we are ſearching into the cauſes of this adultery, on the part of ſuch a woman, that it could not poſſibly ariſe from any original vice in her nature; for, if ſhe had been a woman of vicious diſpoſition, it muſt have ſhewn itſelf in the ſeaſon when thoſe vices are but too prevalent.—If ſhe had been a woman of a lewd and immoral diſpoſition, it would have then ſhewn itſelf, when ſhe was the natural object of admiration, in the days of her health. When an adulterous commerce takes place under theſe circumſtances, it muſt be aſcribed, I think, to one of two cauſes—either to ſome fault in the huſband, or to ſome peculiar ſeduction. It frequently happens, Gentlemen, in cauſes of this ſort, that huſbands have themſelves to blame for the misfortunes they complain of. It frequently happens they are brutal, unkind, unfeeling, cold, inattentive; and the wife being no longer the object of that affection ſhe has a right to expect, turns her regard into another channel. Gentlemen, ſo far is that from being applicable to Lord Cadogan in this caſe, that I will venture to hold him out as the pattern of huſbands; indulgent, affectionate, generous. This Lady brought him no fortune; but though ſhe

brought

brought him no fortune, he conducted himſelf towards her as he ought. He made his will ſeveral times, and every time an alteration in his will took place, ſhe was more and more the object of his bounty and affection. He left her the family jewels, and built her two houſes in the county of Norfolk. He adminiſtered to her rational pleaſures in every reſpect, and her company was the moſt reſpectable and honourable in life. Amongſt that number, I am obliged to rank the unfortunate family of the defendant, who is the eldeſt ſon of Sir Grey Cooper, a man of honour and reputation. Lord Cadogan and he had been in office together in his Majeſty's ſervice, and when Lord Cadogan came to ſettle in the county of Suffolk, Sir Grey reſiding in the ſame county, their acquaintance, as might be naturally expected, grew more intimate. Lord Cadogan had ſeen this young man, who is now arrived at the age of thirty—he had ſeen him grow up from a boy, the ſon of a man who had lived with him in habits of friendſhip—he had ſeen him married, and the father of children, by a moſt amiable, affectionate, and accompliſhed woman. It happens, in this moſt ſingular cauſe, that theſe circumſtances are ſo far from being topics of mitigation, that I

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ſee them in a point of view ſo different, that I will venture to put them in the front of this cauſe, as topics of the higheſt aggravation. Thoſe very conſiderations, which may be preſſed on you to mitigate the damages, I ſtate in the front of the plaintiff's caſe.

"Mr. Cooper, the defendant, married the lady whoſe character and accompliſhments I have truly deſcribed to you. He married her, being the daughter of Mr. Frank, a gentleman eſteemed by the world as a man of immenſe fortune. He died, and died in inſolvent circumſtances. Gentlemen, that was a theme of pity and of ſorrow, moſt undoubtedly, though God knows this cauſe does not require to have any ſorrow enliſted into it. Mr. Cooper lived near Lord Cadogan, in Hanover ſquare. The family fell into melancholy. The houſe which they inhabited was obliged to be ſold, and they were about to retire, objects of compaſſion, into the country, on a very ſmall pittance, to enjoy that comfort which it could ſupply. Upon that occaſion, the friendſhip of Lord Cadogan manifeſted itſelf to the defendant, Mr. Cooper. He invited him and his family to his houſe, which was perpetually open to them. He endeavoured by all means to conſole this family in their affliction, and

held

held out the arm of friendſhip, when it was moſt peculiarly neceſſary for them. Gentlemen, it was in conſequence of this that the intimacy which had been begun between theſe two families, I mean Lord Cadogan and the parents of Mr. Cooper, was much increaſed. From time to time Mr. and Mrs. Cooper, a young woman of youth and beauty, the one as companion to his Lordſhip, and the other as companion to her Ladyſhip, viſited at his Lordſhip's houſe, enjoying his friendſhip, the protection of his roof, and every thing that a man could beſtow on perſons in that wretched ſituation. Gentlemen, I aſk you, as honeſt men, as men who have thoſe affections, which are the beſt ornaments of human nature—I aſk you, whether there can be any puniſhment, criminal or civil, that can fall too heavy on a man who has made the return which I am now about to ſtate to you? Gentlemen, you will not be at all ſurprized, if, when an attachment was growing up between Lady Cadogan and this miſerable young man (for I muſt call every man miſerable, who is entitled to the obſervations I have been making on him), you will not wonder if my Lord Cadogan was not early in diſcovering the progreſs of

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that paſſion. There was on the part of Mr. Cooper and Lady Cadogan every attempt to conceal it; and my Lord Cadogan, after having repoſed confidence in his wife for ſo many years; after having had ſo many proofs of her honour and fidelity; after being the father of ſeven children by this lady, and having ſeen her paſs the ſeaſon of youth and beauty, without a ſtain on her character, and without giving her huſband the ſmalleſt foundation for jealouſy and ſuſpicion, you will not wonder if he was not early in perceiving that the defendant was contriving how he might blaſt and deſtroy his happineſs, and put an end to the peace of his family for ever. Gentlemen, it is the laſt thing in the world that could occur to a truly honourable mind. When Lady Cadogan and this man, in the preſence of his Lordſhip, were privately talking how they might deſtroy his Lordſhip's happineſs, he imputed it to the familiarities of friendſhip and converſation. My Lord Cadogan had no idea of this criminal intercourſe till the ſpring of the preſent year, when he had an opportunity of being informed of circumſtances that led only to ſuſpicion, for he had ſeen nothing paſſing under his own eye. He

ſtill

ſtill had that idea of his wife's honour, as led him totally to diſbelieve that ſhe had been enthralled in a criminal paſſion. Such was his confidence in her, that he believed ſhe had not gone to that criminal length, which is the foundation of this action. He taxed her with a paſſion for Mr. Cooper; and it was in the courſe of that converſation that he plainly ſaw, though he had no reaſon to ſuſpect that his diſhonour was actually effected, yet he ſaw Mr. Cooper had got poſſeſſion of her heart, by the meaneſt and baſeſt ſeduction. My Lord Cadogan ſtood in this unhappy ſituation. His conduct entitles him to every thing human praiſe can beſtow. Some men, perhaps, after long enjoyment, would have been tired of the object of their former paſſion, and would have taken this opportunity to get rid of a woman who had ſo conducted herſelf towards him. But he reflected on the various duties caſt upon him. He remembered he was the father of a race of children growing up in the world, the parent of young women, who, when deprived of their beſt guardian, women of their rank loſe that which can never be reſtored to them. My Lord Cadogan was deſirous to conduct himſelf with caution. He

wiſhed to concert with her father how a ſeparation could take place. In that way he conducted himſelf, and with that moderation. But ſoon afterwards, in conſequence of diſcoveries made by the ſervants, his Lordſhip's ſon, whom I ſhall call to you as a witneſs, informed my Lord Cadogan, that he was not in a ſituation of ſuſpenſe only, but that in fact his diſhonour had been completed. After this, all that he had in contemplation, in order to wind up this buſineſs in the moſt happy manner, by endeavouring to withdraw her affections from this man, and reſtore her to her family, was at an end, and this action was commenced. Gentlemen, the circumſtances of this caſe are ſo diſhonourable, moſt undoubtedly, that the defendant, who has hitherto borne the character of a gentleman and a man of honour in the world, flatters himſelf that he will be able to take the advantage of his ſituation, and make you believe that he is not an adulterer. And I admit to you, and am not afraid of the admiſſion, that the *prima facie* caſe is in his favour. He may ſay, in the language of the poet,

"Go to, there is no ſuch man."

As

As he is the friend of Lord Cadogan—as he took him under his roof from affection and friendſhip—as he himſelf is married to a beautiful and an accompliſhed woman—and as he himſelf is the father of children—under theſe circumſtances, will you believe that a man could be ſo forgetful of every moral and religious obligation to his generous friend and benefactor?

This is the only defence my Learned Friend can make; and I admit to you, Gentlemen, if I do not prove my caſe by ſuch evidence as will put it out of the power of any reaſonable man to doubt, my Learned Friend will be entitled to the advantage of theſe obſervations.

" Gentlemen, Mr. Cooper builds his hopes too on another part of his own criminal conduct; he relies on this, that, after he had ſeduced Lady Cadogan, he ſeduced her ſervant to be the criminal agent in that conſpiracy againſt the huſband. You cannot expect that crimes of this ſort will be committed in open day. Men do not commit crimes as they enter into contracts. Crimes of this nature muſt be perpetrated with the greateſt ſecrecy. By the baſeneſs of the defendant, the plaintiff has loſt one witneſs.

He has corrupted her to be the criminal agent of his criminal pleaſures; and has, for that reaſon, placed himſelf in a ſtate of greater ſecurity. But, Gentlemen, the law of England is the law of wiſdom; and the rules of its evidence are founded on the experiences of human life; and when I bring forward this tranſaction to you, and fix on Lady Cadogan's own maid, as the procurer of the opportunities of their criminal pleaſures, I ſhall ſhew it to have exiſted when I ſhew her to be ſuch an agent of Lady Cadogan and Mr. Cooper, as to admit her own acts and words againſt her. She deceives herſelf, if ſhe thinks to deceive his Lordſhip and you; and I never ſtated any caſe with more confidence, with more ſecurity, and with greater certainty of ſucceſs. Gentlemen, it may ſeem ſtrange to you, in a cauſe of this ſort, that I ſhould bring ſuch a map as this into court, as if this action was brought about ſome contract for building.

[This map repreſented Lord Cadogan's houſe in Upper Groſvenor-ſtreet.]

Gentlemen, you will eaſily ſee how neceſſary it was for Lady Cadogan and this gentleman to conceal their amours from

the view of an injured huſband. His Lordſhip, for three or four years before the unfortunate circumſtances that begat this cauſe, had ſlept in ſeparate apartments from his wife; not becauſe the one was domeſtic, while the other was diſſipated; not becauſe the hours of the one were not ſuited to the other; not becauſe the one was wh—ring or gambling, while the other was purſuing her own pleaſures—but, it aroſe from the bad health of this unfortunate lady, attended with thoſe ſpirits which inſeparably accompany criminal conduct. The body cannot be in health, while the ſpirits are perturbed, and where a guilty conſcience is conſtantly working on the mind. This was the caſe of this unfortunate lady. She was ſubject to violent convulſion fits, which rendered it neceſſary to take medicines, which no man could poſſibly adminiſter, and, therefore, it was neceſſary that ſhe ſhould be attended by a female in the night: I ſhall prove to you by the beſt of all evidence, that this aroſe from no alienation of affection, but from her bad health, which increaſed by the ſcenes that followed. This introduction is only neceſſary as leading to the better underſtanding of the evi-

dence,

dence. I underſtand, it is to be attempted to deny the criminal intercourſe itſelf, which is the foundation of the action. I muſt lead your attention to the evidence, to ſhew the probability of it, and that you may underſtand the witneſſes.

[The learned Counſel here deſcribed, from the plan he held in his hand, the different bed-chambers in Lord Cadogan's houſe, and their ſituation with reſpect to each other.]

Gentlemen, a ſuſpicion took place among the ſervants of this family, that an intimacy of a criminal nature was taking place, or had taken place, between the miſtreſs of the family, Lady Cadogan, and the defendant. The origin of the ſuſpicion was, that Mr. Cooper had been traced into the bed-chamber of Lady Cadogan; and that the ſervants had converſed among themſelves, not only about that, but alſo about other things which they had obſerved. Mr. Cooper, about the month of April or May, 1793, as you will hear from the witneſſes, called at my Lord Cadogan's, at three o'clock in the afternoon. My Lady Cadogan was at that time in her own apartment, and had not riſen through the whole of that day. Mr. Cooper went up into

Lady

Lady Cadogan's room. I aſſert, Gentlemen, the witneſſes I ſhall call to you, ſaw the woman whom I have deſcribed by the name of the criminal agent of the defendant in this ſyſtem of debauchery, namely, Miſs Farly Bull; they ſaw this young woman come out of the room with a chicken, Lady Cadogan either not being well, or for the purpoſe I have mentioned pretended to be ſo. Farly Bull went about half way down the ſtairs, and ſet down the diſh with the chicken on it; ſhe then went to the bottom of the ſtairs to look who was in the hall. What I am about to ſtate to you is, the manner in which Mr. Cooper was let out of this room. It was taken for granted that Lady Cadogan was up, and one of the maids went up ſtairs to make her bed: ſhe knocked at the door and perceived it was bolted; and, finding a man thus concealed, ſhe went down ſtairs full of ſuſpicion, and had no doubt but Mr. Cooper was in the bed-chamber of Lady Cadogan. One ſervant made this obſervation to another. They watched. It was neceſſary Mr. Cooper ſhould be got ſafely out of this room, where he had remained from three in the afternoon till ten at night. This Miſs F.

Bull

Bull was to have the coaſt clear, that he might make his eſcape; and it was neceſſary to ſee where the ſervants were, in order to diſappoint their obſervations. She looked into the hall, where there were three perſons. There was ſome difficulty in diſpoſing of theſe three perſons, and you will ſee the dexterity with which this was contrived. She firſt aſked for ſome coals, and then went up ſtairs again and brought down a note, which one of the chairman was to carry to Lady Churchill. She then took the chicken and gave it to James Chapman, her ladyſhip's footman, to get it warmed in the kitchen. Having thus diſpatched Chapman and the chairman, there was ſtill one gentleman more in the field to be diſpoſed of. It occurred to Farly Bull to order this perſon, namely, Joſeph Pierce, the under butler, into the kitchen after Chapman, to get ſome of the broth in which the chicken had been boiled. Having thus got rid of the three perſons in the hall, and the coaſt being perfectly clear, Farly uttered the word HEM! twice, aloud; and then out walks Mr. Cooper, imagining he had got out without obſervation; and, perhaps, he thinks, as he has got Farly Bull, that he will be

able to walk clear over the coaſt to-day. But, Gentlemen, there is much of this caſe behind; for what I have ſtated to you, is nothing, compared to what I have to ſtate.

When the maid went up afterwards, the door that was bolted before was open, and the bed was warm. My Lady Cadogan had juſt riſen from it, which ſhews ſhe had been in bed the whole day, Mr. Cooper being in the chamber. The deſcription of the bed is better for evidence than for ſtatement. This did not tend to diminiſh the ſuſpicions of the family, and they watched for further intelligence. Nothing, I am ſure, can be imputed to theſe ſervants. They were ſervants where huſband and wife, who are perſons of the higheſt rank, had lived in that affection and confidence which I have deſcribed, for many years. And I hope my Lord will not impute any thing to thoſe ſervants, becauſe they did not venture to accuſe a Lady of this rank to an affectionate and honourable huſband. Gentlemen, the ſervants being ſtruck with theſe circumſtances, took an opportunity of examining them farther, and I ſhall prove to you that they took their ſtand at places

which they will deſcribe. Nothing is neceſſary in the opening but generalities. They poſted themſelves in proper ſtations, and if any doubt ariſes about their capacity to ſee from thoſe places, reſort may be had to the houſe. This ſame Farly Bull went up to Mr. Cooper's room at night, and brought him down in his night-dreſs, only a looſe night-gown and a night-cap on his head, tied with a ribbon, without ſhoes or ſtockings, out of one bed to go into another; and I ſhall prove to you, that in the morning, when this bed was made, it exhibited the ſame ſigns that beds do in conſequence of a carnal connection having taken place between a man and a woman. This leaves no room to doubt of what paſſed in that room that night.

Now, Gentlemen, there is another circumſtance to which it will likewiſe be neceſſary to call your attention. William Lloyd, who is *valet de chambre* of my Lord Cadogan, ſlept with his wife on the ground floor. His wife heard a knocking, which turned out to be nothing elſe than this—I am only deſcribing one or two occaſions, which is all that is neceſſary for this action. She awaked her huſband,

who got up, and found this knocking was made by Farly Bull, when the hour was come, when it was prudent for Mr. Cooper to come out of Lady Cadogan's bed-chamber; and then Lloyd ſaw Mr. Cooper come out of this apartment and go up ſtairs, dreſſed exactly in the manner he came down from his own apartment. Gentlemen, this begat undoubtedly a ſuſpicion in the mind of Mr. Lloyd. He had no connection with the other ſervants. He ſaw Mr. Cooper, over and over again, coming down and going up in this manner.

Now, Gentlemen, having ſtated theſe circumſtances, we have to ſee whether this be that ſort of evidence, which the law of England will accept of in this caſe. It never was expected that the criminal act ſhould be ſeen by witneſſes. If a man goes into a bed naked with a married woman, and is in the apartment with her for a conſiderable length of time, whether in the day or night, common ſenſe forbids a Court of Juſtice to impute his being there for any other cauſe than that which this action complains of. It would be a waſte of time to ſay, if you are ſatisfied when Mr. Cooper came down from his own apartment un-

dreſſed, as I have deſcribed, he was in the apartment of Lady Cadogan, and in bed with her. It would be trifling to ſay any thing was neceſſary to be proved. The remaining queſtion is, did Mr. Cooper come down for this purpoſe, and when he went in at this green door which led through a dreſſing room, and which would either lead into the dreſſing room or bed-chamber, did he go into the one or the other? You will have to ſay whether he went to ſit naked in this dreſſing room, or whether he went into the bed-chamber of the woman, who, before that time, was the object of his criminal paſſion. It would be a mockery on Courts of Juſtice to enlarge on the ſubject. For, if it were poſſible any difficulty could occur on this point, how could I expect any thing like juſtice in the remaining courſe of the cauſe? I will not do it.

There is only another obſervation to which I wiſh to call your attention. This Farly Bull was ſeen conſtantly in this dreſſing room. There was a couch there, on which it appears ſhe muſt have ſlept for ſeveral nights together, which evidently demonſtrates when they were in this criminal intercourſe, this confidant had been poſted

here

here on the watch, in this dreſſing room, which I have already deſcribed to you. If this evidence ſhould not ſatisfy you, the defendant is ſtill without offence. When I prove that this woman, who at other times ſlept in Lady Cadogan's room, was found on thoſe occaſions, when I impute this criminal intercourſe, to ſleep on the couch; when I prove her by overt acts at all times adminiſtering to this criminal intercourſe; when I ſhew her to be at the ſervice and at the diſpoſition and nod of the defendant, they cannot be afraid to call her into Court, and to ſhew, that, however circumſtances may be againſt the defendant, and, however much common ſenſe and experience may impute to him, they are but ſuſpicions. She who brought him down, knew where ſhe placed him. She muſt neceſſarily know where her Lady was during the interval I have been deſcribing to you. She muſt know what was tranſacting. She will come and ſay, however appearances may be, ſhe will come and clear up the character of Lady Cadogan and the innocence of the defendant. Then a queſtion will ariſe, what is the truth of the caſe after you have heard that evidence which ſhall be given? though

it was imprudent to call her, as ſhe muſt either damn the cauſe or damn herſelf. This, however, is only hypothetical; for it is not in human impudence to give ſuch evidence, or in human credulity to ſwallow it. The conſciouſneſs of her own guilt muſt prevent her from giving evidence, and the certainty of the untruth muſt prevent you from believing it. Gentlemen, your province, untramelled with the conſideration of this woman's evidence, will then commence; and I am ſure I have a right to ſay, that God, who is the author of our nature, and that our country, that calls for the beſt ſervices from all its ſubjects, (and ſuch is the impartial adminiſtration of public and private juſtice in the face of the world) call upon you for a judgment proportioned to this caſe.

Gentlemen, I have heard it ſaid now and then by ingenious advocates, that in civil actions, where a man comes for money, the conſideration of the public cannot enter. I deny that poſition. I maintain, that every individual, as a member of ſociety, has a right to inſiſt on the protection of all ſociety, and to be actuated for the preſervation of the moral order of the world. I maintain, this

injured

injured nobleman has a right to expect you will conſider others alſo, and that your judgment will be of ſuch a nature, as to give ſtability and ſecurity to domeſtic life. This is the foundation of all that is noble among men. And at the preſent moment, when the country is rejoicing in the ſucceſs of our arms ;* and when the heart of every Engliſhman beats on viewing how bravely and how ably our brethren in arms, have been defending the proſperity and honour of the country, I am perſuaded that every man who hears me, will admit, that all that valour, that all that fearleſs courage, that all thoſe bold and manly exertions, ariſe from the habits of virtuous life, and from the different relations of a family. There has not a man bled, or expoſed himſelf to bleed in that glorious action, which will make a figure in the hiſtory of this country, who did not firſt feel how his father, his mother, his ſiſters, and all his other relations would think of him, and then he extends his views to the world, and to domeſtic happi-

* This ſpeech was delivered the next morning after intelligence was received of Earl Howe's victory over the French fleet.

neſs,

neſs. This is the foundation of all that is good, of all that is great, and of all that diſtinguiſhes the moſt illuſtrious nations, from nations that are the moſt barbarous.

The only way in which morals can be preſerved, is by taking care of the foundation of morals, religion, and by the regard that is paid to the one and the other in the adminiſtration of the juſtice of nations. The defendant is himſelf a teacher of that religion which recommends to the practice of all its profeſſors, moderation, forbearance, gratitude, and all the Chriſtian virtues. He is the man who violates them all, violates them not in the courſe of youthful paſſions, forgetting who it is he injures, but as a huſband and as a father of innocent children, who have a right to look up to him for protection. He has ruined his own family in undoing the happineſs of another. This is the man I complain of. Gentlemen, it is for you to ſay at what riſk this may be done. I ſhall be told by my Learned Friend of the poverty of this defendant. I have already informed you of his diſappointed expectations, which have involved his own unfortunate wife and children. You cannot make them worſe. He has abandoned them already,

already. They have ſuffered all the bitterneſs it is poſſible for them to do. The conſequences of your judgment will fall only upon him: and if it is once ſaid, that a man has no fortune, and therefore he may prey on the happineſs and honour of others, life would not be worth the having, if it is to be given up to thoſe who have the leaſt conſideration for your happineſs. It is a maxim in the law, that he who cannot pay in his purſe muſt pay in his perſon. Juſtice muſt be ſatisfied. This injured huſband muſt have an atonement. The public muſt have ſecurity. Public peace muſt be preſerved. Nor ſhall it be open to a man to ſay, "Who ſhall puniſh me in a civi "action, who have nothing, who am a beg-"gar; and therefore I will go about ſeek-"ing whom I may devour."

Gentlemen, I expect from your juſtice moſt exemplary damages. If humanity calls aloud for the ſituation of Mr. Cooper, the law makes Lord Cadogan the arbitrator of that humanity. You cannot give him damages proportioned to what he has ſuffered. You cannot reſtore to him what he has loſt; and, therefore, if any thing is

due to Mr. Cooper, he muſt receive it from another quarter.

EVIDENCE FOR THE PLAINTIFF.

The firſt witneſs called on the part of the plaintiff was the Rev. Dr. Cadogan, who ſaid he was the ſon of Lord Cadogan by a former lady, and that he was preſent at the marriage of his father with Miſs Churchill, which took place in Auguſt, 1777. Lord Cadogan was then about forty-nine, and his Lady twenty-eight years of age. Lord and Lady Cadogan, after their marriage, lived affectionately and happily together. His Lady had brought him ſeven children, ſix of whom were living. Miſs Cadogan was born in May 1778, and the youngeſt child was born five years ago.

The defendant, Mr. Cooper, was the eldeſt ſon of Sir Grey Cooper, and is a clergyman of the Church of England. Mr. Cooper married Miſs Franks, and had four children by her. There was an intimacy between Lord Cadogan and Sir Grey Cooper; and Mr. and Mrs. Cooper had lived at the next door to Lord Cadogan in Hanover-ſquare.

Mr.

Mr. Cooper expected a great fortune from his father-in-law Mr. Franks, but was disappointed in his expectations by this gentleman unfortunately dying in insolvent circumstances. In consequence of this, Mr. Cooper and his family were thrown into distress, and Lord Cadogan received him into his family, and treated him and his Lady with kindness and affection. Mr. and Mrs. Cooper had free access, as a friend, to Lord Cadogan's house wherever he lived, and they both visited frequently at his Lordship's.

On cross-examination, he said, he had known Mr. and Mrs. Cooper being at the house of Lord Cadogan, in the country, for a fortnight or three weeks together. They were never a month or six weeks together at Lord Cadogan's when he was there. Lord Cadogan also visited at Mr. Cooper's.

For three or four years Lady Cadogan had been in a poor state of health. He did not know that Mr. Cooper used to be admitted into the apartment of Lady Cadogan when she was ill. Lord Cadogan had no children by his Lady during the last five years.

On re-examination, the witneſs ſaid, that it was he who firſt communicated to Lord Cadogan the particulars of this buſineſs.

Mr. *Chamberlain* ſaid, he had been concerned for Lord Cadogan for more than twenty years, during which time his Lordſhip had made ſeveral teſtamentary diſpoſitions to provide for his Lady, in the caſe of his death. He had been very much in the confidence of his Lordſhip; and from all that he had ſeen and heard, from all the converſations that had paſſed between his Lordſhip and him, he thought Lord Cadogan doated on his Lady.

Two other moſt reſpectable gentlemen confirmed this evidence, as to the happy and affectionate manner in which this Nobleman and his Lady lived together, during all the time theſe gentlemen had known them, which had been ten or twelve years.

Mary Muros ſaid, ſhe was a married woman, and had lived about eight years in the family of Lord Cadogan as one of the houſemaids. She knew the Rev. Mr. Cooper when he lived at the next door to Lord Cadogan's, and frequently viſited in the family. About the month of April or May, 1793, when Mrs. Cooper lay-in, there was ſeldom a day

a day during which, at ſome time or other, he was not at my Lord's houſe. One day, in particular, ſhe was at dinner with the other ſervants in the hall, about three o'clock, when the bell at the ſtreet door rang. One of the chairmen opened the door, and ſaid it was Mr. Cooper. After this the drawing room bell rang, which was anſwered by Robert Beam, a footman. One door of that room, which was ſometimes called my Lady's ſitting room or dreſſing room, came on the top of the ſtone ſtair-caſe, and another communicated with my Lady's bed-room. During the whole of the forenoon of that day, Lady Cadogan was in her chamber, and in bed, and at the time when Mr. Cooper rang the bell, ſhe had not riſen. Farly Bull, her ſervant, was attending when the bell rang. In about an hour after, the witneſs went up the back ſtairs to her Lady's dreſſing room, in order to inquire if her Ladyſhip there, that ſhe might make the bed. This was about four or five in the afternoon; the door was then faſtened. On finding her Lady was not riſen, ſhe went away for an hour and a half, or more, and then returned to inquire whether ſhe ſhould do her buſineſs in her

Lady's

Lady's apartment. She found the door of the dreſſing room ſtill faſtened. There was no acceſs to Lady Cadogan's bed-chamber but through that room. She went away; and, about ſeven or eight o'clock at night, returned a third time, but there was no admiſſion. Upon that, ſhe went up to a garret where ſhe and Betty Ruſſel, another maid, uſually ſat. There was in Lord Cadogan's houſe, what is called a well-ſtaircaſe. A perſon could ſee from the top to the bottom of it. She came down again to the dreſſing room about ten o'clock at night, and found Farly Bull in it; but ſhe could not get admiſſion into her Lady's bedroom. The door was ſtill faſtened. She then went into the paſſage, leading to her own room. This curious tranſaction did not at all ſtrike her till ten o'clock at night. But, being then refuſed admiſſion, ſome ſuſpicions came acroſs her mind. In the paſſage leading to her own room, there was an open place, from which ſhe could look down on the ſtone ſtaircaſe. She placed herſelf there, immediately on her return from Farly Bull. There were then three men in the hall; one of the chairmen; Joſeph Price, the under-butler; and James Chapman, her La-

dyſhip's own footman; and theſe three perſons were diſpoſed of in this manner by Farly Bull.—The chairman was ſent out with a note to Lady Churchill; Chapman was ſent down to the kitchen with a china diſh and a chicken on it to warm; and Price was ſent after Chapman to get ſome of the broth in which the chicken had been boiled. The coaſt being thus clear, Farly Bull immediately came down the ſtone ſtairs, and, looking towards the paſſage, ſhe ſaid, Hem! Hem! twice, aloud. She was looking towards the other ſtairs, where, if any body had been coming, ſhe muſt have ſeen them. On Farly Bull thus coughing out, the witneſs ſaw Mr. Cooper run down the ſtone ſtairs very quick, and Farly Bull let him out at the ſtreet door, after which ſhe ſhut the door, and went back to Lady Cadogan's bed-chamber. This was after ten o'clock at night, or rather drawing near to eleven. The witneſs then went into Lord Cadogan's bed-room, which was on the ground-floor, and where ſhe found Betty Ruſſel, and had ſome converſation with her on this buſineſs.

Farly Bull then opened the door out of the dreſſing room, and called to the witneſs.

When

When ſhe went up ſtairs, and paſſed through the dreſſing room, Farly Bull was putting on her Lady's things. The bed was much tumbled, and it was warm, as if her Ladyſhip had juſt riſen from it. She appeared from her dreſs alſo to have juſt riſen from it. She thought this was about the latter end of April or beginning of May, though ſhe could not ſpeak poſitively as to the time. The next time after this that Mr. Cooper was at Lord Cadogan's, he ſtaid a few days, then went into the country, and returned a ſecond time. She did not make any obſervations on his conduct the firſt time he was there, but about a week after he returned the ſecond time, the witneſs was in her own room, which was a front garret at the end of the paſſage. It was near one o'clock in the morning. She heard Farly Bull come into the room adjoining to her, and return immediately. The witneſs opened her room door, and went along the paſſage which looked to the head of the ſtairs. She went there ſecretly, and heard Farly Bull ſpeaking to ſomebody at the door of Mr. Cooper's bed-chamber, which was one ſtory above Lady Cadogan's. Farly Bull then went down ſtairs, and Mr. Cooper followed her

They

her. They came to the bottom of the back ſtairs, which led into her Lady's apartment. Farly then opened the green door towards her, and Mr. Cooper went round the edge of it as ſhe held it open into the room. The witneſs did not know what became of Farly Bull afterwards. Mr. Cooper had a night-cap and looſe gown on. He did not appear to have on any other clothes. She had not the leaſt doubt but that it was Mr. Cooper. Farly Bull had a candle in her hand, by which ſhe diſtinctly ſaw Mr. Cooper. The witneſs then went down to Mr. Cooper's room door, puſhed it open, and looked into the room; Mr. Cooper was not there. She then went back to her own room. The next morning Lady Cadogan's bed was much tumbled. At that time Lord Cadogan did not ſleep with his Lady, and there was no other male viſitor in the houſe but Mr. Cooper. The firſt night after Mr. Cooper's return from the country, which was in the month of June, the witneſs perceived ſymptoms on his bed, which ſeemed to be the effect of two perſons of different ſexes being together, and the bed was much tumbled.

In about a week ſhe obſerved theſe ſymptoms on Mr. Cooper's bed. Mr. Cooper had been ſick in the night, as was apparent from the ſtate of things in the morning. He had retched in the baſon. Lady Cadogan uſually ſlept in a white waiſtcoat drawn under the chin with a ribbon, and the witneſs, after having viewed the baſon in Mr. Cooper's bed-room, went afterwards to make Lady Cadogan's bed, and found that the ribbon, which was in the waiſtcoat the night before, when ſhe retired to reſt, had been taken out. It was found in the room all beſmeared with the ſame appearance which was found in the baſon in Mr. Cooper's bed-chamber. The witneſs ſaid, ſhe believed in her conſcience, that the ribbon put on that appearance from the ſickneſs of Mr. Cooper. There was no appearance of her Ladyſhip being ſick in her own chamber.

On croſs-examination ſhe ſaid, during all the time ſhe had been in Lord Cadogan's family, ſhe had lived conſtantly in town, and had never been with the family in the eouutry. During the laſt three or four years ſhe had never formed any judgment with regard to the ſtate of Lady Cadogan's health.

health. She never had any reaſon to ſuppoſe ſhe was not in a very good ſtate of health; her pretending to be ill, in her apprehenſion, was all a ſham. She thought her illneſs was not real, though ſometimes it might; a great part of it ſhe did not think real. She never communicated to Lord Cadogan the facts; ſhe had waited till ſhe had been aſked reſpecting them, about nine or ten weeks ago.

Betty Ruſſel was next called, who fully confirmed what the laſt witneſs had ſworn.

On croſs-examination ſhe ſaid, that Mr. Cooper and his Lady had frequently viſited at Lady Cadogan's, and they had ſometimes ſlept there for three months together; and during the time that Mr. Cooper was there, Lady Cadogan was frequently unwell. She was frequently ſo ill with ſpaſms, that ſhe was obliged to be carried down ſtairs. The witneſs had ſeen James Chapman, her Ladyſhip's footman, aſſiſting to get her down ſtairs. She never ſaw Mr. Cooper help her. Lady Cadogan one night was taken very ill after all the company was gone, and Mr. Cooper aſſiſted to take her up to her bed room. My Lord Cadogan had then gone down ſtairs. Some-

times Lady Cadogan got up at two o'clock, and at other times not till five in the afternoon. From her bad ſtate of health, her hours of getting up were very uncertain. Mr. Cooper was treated there like other viſitors.—When Lady Cadogan was confined to her bed-chamber, Mr. Cooper has ſupped in her bed-chamber ſeveral times, with Mr. H. Churchill, her Ladyſhip's brother. The witneſs conſidered her Ladyſhip as a perſon in very bad health. Mr. Cooper ſometimes ſaw Lady Cadogan in her bathing dreſs at Leiceſter, where the family was about three months. This dreſs was a complete flannel covering that went over the whole body. The witneſs never gave any information of what ſhe knew on this buſineſs, till a few weeks ago. Mr. Cooper always behaved with a great deal of politeneſs and attention to Lady Cadogan. He uſed to ride out with her Ladyſhip and Miſs Cadogan, and ſometimes with Lady Cadogan alone. Lord Cadogan was fond of muſical entertainments, and Mr. and Mrs. Cooper uſed to aſſiſt at theſe ſort of amuſements. During the laſt two or three years, Mr. Cooper was more in his Lordſhip's houſe than any other perſons not connected with the family. On

re-exami-

re-examination, ſhe ſaid, the reaſon why Mr. Cooper's aſſiſtance was wanted was, becauſe he was very handy.

William Lloyd ſaid, he had lived in the family of Lord Cadogan for eight or nine years. He knew Mr. Cooper as being frequently at Lord Cadogan's houſe. A great deal of friendſhip ſeemed to ſubſiſt between the two families. The witneſs ſaid, that he and his wife ſlept below ſtairs, and one night his wife awaked him, when he heard a tapping over his head, which ſeemed to come from the dreſſing room. He got up and unlocked his bed room door, and ſaw Mr. Cooper go up ſtairs in a looſe gown and night cap towards his own apartment. After the tapping, he heard a walking over his head, which ſeemed to come from Lady Cadogan's bed-chamber, and from no other quarter. This was between four and five o'clock in the morning. It was in the latter end of May, and perfectly light.

In about three or four days after this, my Lord was later at White's than uſual, as he expected ſome news. It was near one o'clock when he came home. Lady Cadogan had gone very early to bed that night. After he had got Lord Cadogan to bed,

Miſs Farly came down to Lord Cadogan's room, and after ſhe had ſaid ſomething which he did not underſtand, ſhe walked up ſtairs and opened the green baize door that led into her Lady's dreſſing room. She then looked over into the porter's hall. She then came and looked down the back ſtairs with a lighted candle in her hand, and making a humming noiſe; the witneſs had then put out his candle, was partly undreſſed and was concealed. After Farly had looked down both ſtairs, he ſaw her go up towards Mr. Cooper's room door, and, in a very few ſeconds, ſhe came down again with the candle in her hand, and Mr. Cooper following her in the ſame dreſs in which he had ſeen him going up to his own apartment on a former morning. His foot-ſteps went directly into her Ladyſhip's bed-chamber. He ſaw him twice afterwards, but did not recollect the times.

On croſs-examination, he ſaid, he did not give Lord Cadogan any information on this buſineſs till he had been aſked reſpecting it, about ten weeks ago.

Mr.

Mr. Law roſe on behalf of the defendant.

" Gentlemen of the Jury,

" I truſt I ſhall meet with credit, when I aſſure you, I never roſe to addreſs a Jury in my life, with half the concern and anxiety that reſts on my mind at this moment; for I have in truſt not only the happineſs of the defendant, and of that amiable, affectionate, and accompliſhed wife, for ſo ſhe has been deſcribed by my Learned Friend, and theſe epithets undoubtedly belong to her; I have not only in truſt the happineſs of this gentleman and his family, but I am concerned for his ſituation in life to the end of the time he has to live. And this will depend on the attention you will give to the evidence that has been laid before you, on the minute and ſtrict inveſtigation which the circumſtances ſubmitted to your conſideration, will, I doubt not, undergo, before you proceed to give that verdict, which, if it be in the way my Learned Friend has ſtated, muſt be fatal to the happineſs of the reſpectable perſon for whom I am concerned, fatal to the character of a perſon (Lady Cadogan) who has preſerved an unſullied, unimpeached, unimpeachable

fame

ſame up to this very moment. Suſpicion was infuſed into the mind of the noble Lord, and has produced the cauſe that occupies us this day. Gentlemen, I have to lament the noble Lord was not tainted with jealouſy earlier, or not at all. If the defendant had not at all times had free acceſs to this Lady, who had given her Lord the beſt proof of her entire affection, and who had defied the world to throw an imputation on her character; if ſhe had not received from eighteen years matrimonial comfort, that credit which her character deſerved; and if Lord Cadogan had not repoſed that confidence in the character of Mr. Cooper which it deſerved, we ſhould not have had this action, and thoſe facts which have been laid before you in evidence; but which, I contend, are compatible with the innocence of the perſon for whom I ſtand before you. Gentlemen, Lord Cadogan was married to his Lady eighteen years ago; ſhe has brought him ſeven children, ſix of whom are living, and ſome of them daughters, arrived at marriageable years. Up to this moment this Lady's character ſtands unimpeached. And will you believe, that ſhe who had performed all her duties faithfully and honourably to her

her huſband while ſhe was in the zenith of her youth and beauty, has at laſt ſtrayed, or been ſeduced from the path of correctneſs and virtue? No, Gentlemen; ſuch a character requires the moſt irreſiſtible proof, the moſt unequivocal and convincing circumſtances to be laid before you, before you will for a moment liſten to the evidence of ſervants, who have kept this ſecret locked up rankling in their breaſts, till they had an opportunity of divulging it.

The defendant is a young gentleman, married to an amiable wife, who, during the whole period of this unlawful intercourſe with Lady Cadogan, lived in the utmoſt regularity with her huſband, and bore him four children. Lady Cadogan during the ſame period had no children at all. Gentlemen, my Learned Friend uſed thoſe topics as arguments of the defendant's guilt, which I ſay are the ſtrongeſt proofs to induce you to believe he is innocent of the crime imputed to him.

This lady, though ſhe has been beautiful, is, I believe, no longer ſo. She is in a ſtate of perpetual ill health. I rely ſtrongly on her character, and on the defendant's being of a profeſſion which naturally induces

graver manners, and a more correct line of conduct. I am not an advocate for Platonic love or friendſhip, but there may ſubſiſt between perſons of different ages, with long habits of family intercourſe, a great degree of tenderneſs, which may exhibit a number of appearances that may be miſconſtrued. The approach of a young man of twenty-ſeven, to the ſick bed of a lady who is mother of ſeven children, and at the age of forty-nine, is not a circumſtance upon which you will bottom any well founded ſuſpicions, much leſs will you draw from it the ill founded inference of *criminality*. Mr. Cooper had acceſs to her with the knowledge of Lord Cadogan. He carried her up ſtairs. He was left with her at all times, and then my Lord Cadogan felt no ground of ſuſpicion. Now, Gentlemen, if you have attended to the evidence, it comes to no more than this, that Mr. Cooper, with the knowledge of Lord Cadogan, had acceſs to the chamber of a ſick woman whenever he might be induced to viſit her.

Having made theſe preliminary obſervations, Mr. Law next went into a minute conſideration of the evidence of all the witneſſes produced on the part of the plaintiff, and

drew

drew concluſions from it, favourable to the innocence of Mr. Cooper. He thought, the Gentlemen of the Jury could not pay much attention to the evidence of the witneſſes who had kept the ſecret concealed in their own breaſts, and had thereby been guilty of a breach of duty to their maſter, in not revealing it ſooner, if they really believed his honour had been invaded. He thought the whole might be explained on the ground of that acceſs which his client had to Lady Cadogan's bed-chamber during all the period of her ſickneſs; for during no part of the time, when the criminal intercourſe was ſuppoſed to be carried on, did they pretend her Ladyſhip was in good health. Said, the Learned Counſel, Gentlemen, you will conſider all the circumſtances of this caſe with that ſerious attention which its importance demands; and if, after the moſt minute conſideration, you are convinced of the guilt of the defendant, you will ſay ſo by your verdict. But if not, for God's ſake, do not condemn a gentleman, who has hitherto had a pure and honourable character, and who ſaw in his father's family, an example of as much virtue, integrity, and honour, as are to be

found in any family in this kingdom. You will reflect on the conſequence of a verdict againſt him. It will be attended with the complete ruin of his wife and family; and he himſelf will be an outcaſt from all ſociety. As this cauſe is of infinite importance to the well-being and happineſs of theſe parties, I hope you will think of the levity of the proof, and find the defendant not guilty.

LORD KENYON'S *ſumming up to the* JURY.

" Gentlemen of the Jury,

" This, as it appears to me, deſerves to be treated as a cauſe of great importance to both the parties on the record.

" The plaintiff, who is a perſon of high rank, has appealed to the laws of his country, hoping to receive by your verdict, a ſatisfaction for an injury, which if he has received, is one of the greateſt that can be done by man to man.

" The perſon who is ſuppoſed to have committed that injury, is the ſon of virtuous parents, the huſband of a virtuous wife, and a clergyman of the church of England. To

him, therefore, it is certainly of importance to reſiſt the complaint made againſt him, as well as he can. Not only his own preſent and future intereſts in this world, but likewiſe the intereſts of his wife and family, are deeply involved in it. Theſe circumſtances will have this effect—to make you conſider the cauſe ſeriouſly; but they are not to ſhut your ears, or to cloſe your judgments. You are to meet this, like all other caſes of importance, with the firmneſs of men, who know they have a duty to diſcharge, and that they are to diſcharge that duty on the evidence laid before them, without canvaſſing the former character of the defendant, without conſidering how far it may hurt his preſent or future intereſts, and without even conſidering how far it may hurt the intereſts of his family. If he has been guilty of the offence, it was for him to conſider all that before he committed it.

"Gentlemen, neither in this nor in any ſimilar caſe, is it neceſſary that any poſitive proof of the offence imputed ſhould be given. If poſitive proof had been neceſſary, in no one cauſe that I have ever tried (and it has been my misfortune to have tried too many of theſe cauſes) could the plaintiff ever have obtained

obtained a verdict. All of them have proceeded on circumſtances more or leſs pregnant. In vain would Judges endeavour to adminiſter the civil or criminal juſtice of a country, if poſitive proof was neceſſary. Light ſuſpicions are certainly not to be received; but ſtrong, pregnant ſuſpicions, ſuch as rouſe the mind of every man who hears them ſtated, and carry him involuntarily to certain concluſions: this is the ſort of evidence expected to be given.

"Gentlemen, it has been ſaid, if this caſe is made out at all, it muſt be made out by the evidence of ſervants living in the family of Lord Cadogan, who have ſuffered this ſecret to continue for a long ſpace of time rankling in their breaſts, till ſome occaſion called on them to divulge it. If I am to take the characters of theſe ſervants from the family in which they have lived, I am bound to think well of them. Some of them have lived ſix, and others eight or nine years, in an honourable family of great diſtinction, and conducted themſelves with great decorum. The ſituation in which they have been, brings their character to you along with them. But it is ſaid, this ſecret has been kept a long time rankling in

their

their breaſts. Gentlemen, they were ſervants of a maſter doating on his wife. They were ſervants in a family where, to all appearance, happineſs had kept its conſtant reſidence. For ſuch ſervants, therefore, to reveal the ſecret, would have been *periculoſæ opus aleæ*. Perhaps they thought they might be left deſtitute of any ſupport, if they carried ſuch a report to the ears of their maſter. They might be apprehenſive that their maſter's prepoſſeſſion for his wife ſhould outweigh their teſtimony, that they would be put out of the ſituation of ſervants in ſo honourable and ſo well conducted a family. But if theſe witneſſes are worthy of credit, (and I proteſt I never in my life ſaw evidence given in any cauſe given with more caution, with more apparent fairneſs, and with more conſiſtency), what other circumſtances are there? That this gentleman, the friend of my Lord Cadogan, was traced to the bed-chamber of his Lady, at twelve o'clock at night, alone, and at two o'clock in the morning.

It is imputed to another ſervant in the family, that ſhe was the pander of the luſts of this man and woman. This is notoriouſly imputed to her, and they did not call her

her to give any account of this buſineſs. On the part of the plaintiff it could not be expected ſhe ſhould be called; becauſe his caſe imputes to her that ſhe was in the intereſt of this Lady and Gentleman; and therefore, from her repreſentation, nothing could be expected to conduce much to prove the caſe of the plaintiff. But it was competent on the other ſide to have called her, if they had any confidence in her character and deportment before the Court. Her evidence, in my apprehenſion, ought to have been oppoſed to the evidence on the other ſide. But, Gentlemen, let me not preſume to miſlead you; as if the defect of evidence on the one ſide, could ſupply the defect of evidence on the other. I ſhall not detail to you the ſtate of the bed, the garb in which Mr. Cooper was ſeen going from his own apartment to Lady Cadogan's bed-chamber, the times and circumſtances of the tapping at the door, and his immediate return from her Ladyſhip's bed-chamber to his own: theſe have made long ago, the impreſſion they ought to have made, and I am confident they have made no more. But it ſeems, the force of that impreſſion is to be taken off, by the confidence Lord Cadogan had

had in this Gentleman; and it is ſaid theſe ſuſpicions do not carry the caſe a bit further than what my Lord Cadogan knew and approved of in the conduct of Mr. Cooper. It is convenient for Learned Counſel, in preſſing thoſe circumſtances that are favourable to their client, ſometimes to forget the circumſtances that are againſt them; and this might have ſome effect, if the cauſe were to be determined by the inferior faculties of the mind. But, Gentlemen, to you, whoſe diſcernment is not liable to be ſo carried away, the difference has already preſented itſelf. When Lord Cadogan's family was at Leiceſter, was it at twelve o'clock at night, or at one or two o'clock in the morning, when Mr. Cooper came into Lady Cadogan's bed-chamber? No, no, no, Gentlemen, it was in the preſence of the Lady's brother, the protector of her honour, and the protector of his own family's honour, in protecting her's. Friendſhip is always accompanied with a certain degree of familiarity; and this young man, being nurſed up almoſt as a member of the family, ſaw this Lady at the bath, cloathed in the manner in which ſhe was, in the

preſence of Lord Cadogan and of her brother, Mr. Churchill, (and there was nothing indecent in it) he was permitted to partake of the family ſupper, which was ſerved up, for her convenience, in her bedchamber, at Leiceſter. If theſe are ſimilar circumſtances, nothing can be ſo unlike as ſimilar circumſtances. What I before alluded to, I ſhall not repeat. You will conſider all the facts that have been given in evidence, and will ſay how far ſhort they fall of conviction.

" The firſt queſtion for you to decide is, the fact of guilt which this declaration imputes to the defendant. If you cannot arrive at a fair moral certainty—if theſe circumſtances ſhall appear to your minds trivial and light as air, you will diſcharge your truſt by acquitting the defendant. But if you find them bear down conviction, you will look at the object they make out, without looking at the conſequences to which they lead; and this will form another circumſtance, namely, the damages. Gentlemen, the ſituation of Lord Cadogan can never be repaired. The fond doating huſband, who lived with his wife in a ſtate of

uninterrupted happineſs for eighteen years, is robbed of her affection, and her children are robbed of the affection of their mother. This is the real ſituation in which Lord Cadogan and his children are put by this defendant, whoſe guilt, if he is guilty, is aggravated by the violation of all the duties of friendſhip, of hoſpitality, of gratitude. In violation of all theſe, he has committed this offence, and contrary to the courſe of his education. He is an apoſtate from that religion of which he was a teacher, and which was publicly enforced by him. He has brought a *ſtigma* on that ſacred profeſſion to which he belongs, and which is moſt beneficial to the public, that it ſhould always be held in honour and reſpect. The ſociety in which we live, are linked together by the bonds of religion; and the proper conduct of thoſe who are the miniſters of it, tends extremely to hold it in reſpect. It is the foundation of all our happineſs, preſent and future.

" Gentlemen, With theſe obſervations I ſhall leave this cauſe with you. You have a weighty cauſe undoubtedly to decide; and as you are bound to acquit the defendant if

innocent, ſo you will do juſtice to a man, whoſe heart muſt have been wrung to pieces, when he inſtituted this action."

The Gentlemen of the Jury withdrew about half an hour, to conſider of their verdict, and then found for plaintiff—Damages, TWO THOUSAND POUNDS.

FINIS.